

## Statutory Authority

### HEMP

#### 43-27-101. Chapter definitions.

As used in this chapter:

- (1) Commissioner means the commissioner of agriculture;
- (2) Department means the department of agriculture;
- (3) Hemp means the plant *cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis; and
- (4) THC means delta-9 tetrahydrocannabinol.

#### 43-27-102. Hemp license Requirements Records.

- (a) Any person who produces hemp in this state shall obtain an annual license from the department.
- (b) In order to obtain and maintain a hemp license, a person must:
  - (1) Submit to the department a description of all land on which the person produces hemp in this state, to include global positioning system coordinates and other information sufficient to identify the property;
  - (2) Submit to the department any other information prescribed by rules as necessary for the efficient enforcement of this chapter;
  - (3) Consent to reasonable inspection and sampling by the department of the person's hemp crop and inventory; and
  - (4) Not be convicted of a state or federal felony drug offense within the previous ten (10) years.
- (c) The department shall maintain all records that the department creates, or that are submitted to the department, for regulation of hemp in this state for a period of at least five (5) years.

#### 43-27-103. Prohibited acts.

The following acts within this state are prohibited:

- (1) Possession of rooted hemp by any person, other than a common carrier, without a valid license issued by the department;
- (2) Possession of cannabis with THC concentrations greater than three-tenths of one percent (0.3%) on a dry weight basis;
- (3) Failure to pay upon reasonable notice any license, sampling, or inspection fee assessed by the department;
- (4) Violation of this chapter or any rule promulgated under this chapter; or
- (5) Willful hindrance of the commissioner or the commissioner's authorized agent in performance of their official duties.

**43-27-104. Authority of commissioner.**

- (a) The commissioner is authorized to:
  - (1) Administer this chapter;
  - (2) Take all action necessary to obtain primary regulatory authority over the production of hemp in this state, as authorized by Section 297 of the Agriculture Improvement Act of 2018 (Public Law 115-334);
  - (3) Promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as necessary for regulation of hemp in accordance with the federal Agriculture Improvement Act of 2018 and as determined by the commissioner to be necessary for the efficient enforcement of this chapter;
  - (4) Determine requirements for and issue licenses for the production of hemp in this state;
  - (5) Deny or revoke licenses and issue civil penalties up to one thousand dollars (\$1,000) for each violation of this chapter or its rules;
  - (6) Establish reasonable fees for hemp licenses necessary to implement and administer a hemp program in this state on an ongoing basis. All revenue collected from fees established under this subdivision (a)(6) must be used exclusively for administration of a hemp regulatory program by the department;
  - (7) Require the maintenance or filing of records; and
  - (8) Enter during normal business hours any premises or conveyance of a person licensed under this chapter for purposes of inspection, sampling, and observation and copying of records required under this chapter.

- (b) All rules promulgated by the department prior to July 1, 2019, for regulation of industrial hemp are null and void immediately upon rules promulgated to effectuate chapter 87 of the Public Acts of 2019 taking effect. Within one hundred twenty (120) days of chapter 87 of the Public Acts of 2019 becoming law, the department shall promulgate rules necessary to effectuate the purposes of this chapter. The commissioner is authorized to file emergency rules under 4-5-208 as necessary for compliance with this subsection (b).

**43-27-105. Enforcement of chapter Sample and analysis of hemp produced in state.**

- (a) The department shall enforce this chapter in a manner that may reasonably be expected to prevent production or distribution of cannabis with THC concentrations exceeding three-tenths of one percent (0.3%) on a dry weight basis, including random inspections and sampling of hemp licensees to ensure compliance with this chapter and rules promulgated under this chapter.
- (b) The department shall sample and analyze hemp produced in this state and hemp products distributed in this state for THC concentrations, tested according to protocols prescribed by rule under this chapter. Departmental testing methods shall employ liquid chromatography tandem mass spectrometry, in a manner similarly reliable to post-decarboxylation, to determine a cannabinoid profile of samples tested, including their THC concentrations.

**43-27-106. Stop movement or destruction order for plant or product exceeding authorized concentrations Penalties Evidence.**

- (a) When the commissioner or the commissioner's authorized agent finds any cannabis or cannabis product to contain THC concentrations greater than three-tenths of one percent (0.3%) on a dry weight basis, the commissioner may issue either a written stop movement order or written destruction order for the plant or product, as appropriate to best serve the public interest and purpose of this chapter.
- (b) Any person who negligently violates this chapter or rules promulgated under this chapter is subject to administrative action by the department including denial or revocation of any license issued under this chapter; issuance of stop movement orders, destruction orders, and civil penalties; and actions for injunction. Negligent violations of this chapter or rules promulgated under this chapter shall not be the basis for criminal prosecution of any person.
- (c) Any person who violates this chapter or rules promulgated under this chapter with a culpable mental state greater than negligence shall be subject to prosecution under any applicable state or federal law. If the department determines that a person has violated this chapter or rules promulgated under this chapter with a culpable mental state greater than negligence, the department shall report the matter to the Tennessee bureau of investigation and the United States attorney general.

- (d) In all proceedings brought to enforce this chapter, proof of testing consistent with rules promulgated under this chapter showing THC concentrations greater than three-tenths of one percent (0.3%), but not greater than one percent (1.0%), on a dry weight basis is prima facie evidence of a negligent violation of this chapter.
- (e) In all proceedings brought to enforce this chapter, the following are prima facie evidence of violation with a culpable mental state greater than negligence:
  - (1) Proof of testing consistent with rules promulgated under this chapter showing THC concentrations greater than one percent (1.0%) on a dry weight basis;
  - (2) Three (3) violations within a five-year period for possession of rooted hemp without a valid license issued by the department; or
  - (3) Violation of any stop movement or destruction order issued under this chapter.
- (f) Any person whose license is revoked for violation of this chapter or rules promulgated under this chapter is ineligible for reissuance of the license for a period of at least five (5) years.

#### **43-27-107. Jurisdiction for violations.**

When the commissioner has reason to believe that a person is causing or has caused a violation of this chapter or the rules promulgated under this chapter, the commissioner may initiate proceedings in either the chancery court of Davidson County or the chancery court of the county where the violation occurred, for injunctive relief to prevent the continuance of the violation or to correct the conditions resulting in the violation.

#### **43-27-108. Exemption from other applicable statutes and rules not provided by this chapter.**

This chapter does not exempt any person from enforcement of statutes and rules applicable to particular uses of hemp, including, but not limited to, food safety statutes and rules for distribution of food products; feed statutes and rules for distribution of commercial feed; and seed statutes and rules for distribution of seed.